

REMARKS

This is in reply to the office action of September 21, 2006. Reconsideration of the patentability of applicants' claimed invention is requested.

Status of the Claims

Claims 38, and 46-58 are pending. Claims 38 and 50 have been amended, and new claims 59-60 have been added. Accordingly, there is presented for the Examiner's consideration Claims 38, 46 to 58, and 59-60 which total in number 16, of which Claims 38 and 60 are the only claims which are in independent form. Accordingly, no claim fee is due.

Support for the amendments to Claim 38 and for new Claims 59 and 60 are found in the specification beginning at page 12, line 15, to page 14, line 26, and Figures 1 and 2 of the application.

Support for the amendment to Claim 50 is found in the specification at page 36, lines 5 to 7.

The Examiner's attention is directed to applicants' Reply dated March 1, 2005, the paragraph bridging pages 17 and 18 and the last paragraph on page 18, for a summary of applicants' claimed invention.

Summary of the Examiner's Rejections

The Examiner's Action includes a rejection of all of applicants' claims in three different §103(a) rejections which differ one from the other by citation of different combinations of references.

The Examiner's Action includes also rejections under 35 U.S.C. §112 of Claims 51-52.

The Examiner's §112 and §103 rejections are discussed below.

#### Discussion of the §112 Rejections

The Examiner's §112 rejections of Claims 51 and 52 are traversed respectfully. Basis for the amount range of the sodium hydroxide appears in the present application on page 36, lines 8 to 10.

#### Discussion of the §103 Rejections of Claim 38

Two §103 rejections of Claim 38 were made. In the first rejection beginning on page 6 of the action, Claim 38 is considered as unpatentable over the disclosure of WO 99/02133 to Lefevre et al in view of the disclosure of WO 97/27841 to Edens et al. in further view of Deckner et al (5,707,635). In the second of the §103 rejections beginning on page 10 of the action, Claim 38 is considered as unpatentable over the disclosure of WO 99/02133 to Lefevre et al in view of the disclosure of WO 97/27841 to Edens et al. in further view of Smith et al (5,562,642), optionally in further view of Tomlinson et al (6,211,250). The rejections are traversed respectfully. The third §103 rejection is not directed to Claim 38.

Both rejections rely on the reference to Edens et al. for disclosing the claim limitations related to the “package” aspects of Claim 38. The following discussion points out that none of the cited references, and in particular the Edens et al. reference, discloses the “package” aspects of Claim 38. Accordingly, the combined references do not result in the subject matter of Claim 38. Moreover, none of the references provide the requisite motivation to make the necessary modifications to the combined references to meet all claim limitations.

The secondary reference cited in the two §103 rejections directed to Claim 38 is International Publication No. WO 97/27841 to Edens et al. The Examiner has cited this reference exclusively for its disclosure relating to the packaging aspects of Claim 38. Thus, the Examiner relies on DE 3630849 which is referred to on page 9 of Edens et al. for a teaching of applicants’ claimed package. Applicants have reviewed Edens et al. and the U.S. publication which corresponds to DE 3630849, namely U.S. Patent No. 4,823,985. (A copy of this patent was provided to the Examiner in applicants’ Reply dated March 1, 2005 – see Appendix B thereof). The references, singularly or in combination, do not teach or suggest the structural limitations of Claim 38.

In the '985 patent, two package embodiments are disclosed – those of Figure 1 and Figure 2. Figure 1 shows a package having two independent bags 2 and 3, which bags are united by juxtaposition in a flexible case 4. See '985 patent, column 5, lines 16-22. Figure 2 shows a package consisting of three superimposed sheets 104, 105 and 106, joined along their edges, the three sheets forming the two bags 102 and 103. See '985 patent, column 5, lines 23-28. Neither of these embodiments teach or suggest

a package having two forms, i.e., an unfolded form wherein said interior faces of said first and second packets are separated from one another such that said dispensing orifices of said first and second packets are separated from one another, and a folded form wherein said interior faces of said first and second packets are in an adjacent facing relationship with one another such that said dispensing orifices are positioned adjacent each other allowing said tear-off tabs to be simultaneously torn off such that said compositions may be dispensed and combined with each other as they exit said packets through said dispensing orifices. Both embodiments of Edens et al. disclose a package having only a single form.

Furthermore, the '985 patent does not teach or suggest that the package is foldable along said commonly shared side from the unfolded form (wherein the dispensing orifices of said first and second packets are separated from one another) to the folded form (wherein dispensing orifices are positioned adjacent each other). There is no mention of two forms, and no mention of folding to move from one form to the other. There would be no reason for folding as called for in Claim 38 since the unfolded form as claimed does not exist in the '985 patent. These limitations are missing from the '985 patent, and none of the references of record provide the necessary motivation to modify the '985 patent as claimed in Claim 38. Accordingly, the "package" aspects of applicants' Claim 38 distinguish over the Edens et al. disclosure and the '985 patent. Thus, it is requested that the §103 rejections be withdrawn.

New Claim 59, depending from Claim 38, is likewise believed patentable.

Moreover, it requires that the package be in the folded form.

New independent Claim 60, although not including the viscosity and composition limitations of Claim 60, includes limitations of the package similar to those of Claims 38 and 59, and thus is believed patentable for similar reasons.

In summary, the combination of references proposed in the office action do not disclose the “package” aspects of independent Claims 38 or 60. Accordingly, it is requested that the involved §103 rejections be withdrawn, and that all claims be allowed.

In view of the above it is requested respectfully that the application be allowed in an early and favorable Action.

Respectfully submitted,

Synnstedt & Lechner LLP

/garyhecht/  
Alexis Barron, Esquire  
Registration No. 22,702  
Gary Hecht  
Registration No. 36,826

1101 Market Street  
Suite 2600  
Philadelphia, PA 19107  
Phone (215) 923-4466  
Facsimile (215) 923-2189  
[abarron@synnlech.com](mailto:abarron@synnlech.com)  
[ghecht@synnlech.com](mailto:ghecht@synnlech.com)

S:\S\SANOFI-AVENTIS\Patents\P22901-A USA\PTO\ReplytoOAO\September21,2006.doc